

RURAL MUNICIPALITY OF CORNWALLISPROVINCE OF MANITOBA**AS AMENDED BY BY-LAW NO. 1626/03/2011**

BEING A BYLAW OF THE RURAL MUNICIPALITY OF CORNWALLIS TO REGULATE AND CONTROL MINING AND TRANSPORTATION OF AGGREGATE IN THE RURAL MUNICIPALITY OF CORNWALLIS AND TO BE KNOWN AS THE “AGGREGATE MINING AND TRANSPORTATION BY-LAW”

WHEREAS The Municipal Act provides as follows:

“232(1) A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
- (c) subject to section 233, activities or things in or on private property;
- (d) municipal roads, including naming the roads, posting the names on public or private property, and numbering lots and buildings along the roads;
- (e) private works on, over, along or under municipal roads;
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- (m) local transportation systems;
- (n) businesses, business activities and persons engaged in business;
- (o) the enforcement of by-laws.

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;
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- (e) subject to the regulations, provide for a system of licences, permits or approvals, including any or all of the following:
 - (i) establishing fees, and terms for payment of fees, for inspections, licences, permits and approvals, including fees related to recovering the cost of regulation;
 - (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the Municipality;
 - (iii) prohibiting a development, activity, industry, business or thing until a licence, permit or approval is granted;
 - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, and providing for the nature of the terms and conditions and who may impose them;

- (v) providing for the duration of licences, permits and approvals and their suspension or cancellation or any other remedy, including undertaking remedial action, and charging and collecting the costs of such action, for failure to pay a fee or to comply with a term or condition or with the by-law or for any other reason specified in the by-law, and
- (vi) providing for the posting of a bond or other security to ensure compliance with a term or condition;

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239(1) If this or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a Municipality, a designated officer of the Municipality may, after giving reasonable notice to the owner or occupier of land or the building or other structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter the land or structure at any reasonable time, and carry out the inspection, enforcement or action authorized or required by the Act or by-law;
- (b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and
- (c) make copies of anything related to the inspection, remedy, enforcement or action.

293 A Municipality must maintain

- (a) municipal roads within its boundaries; and
- (b) land within its boundaries that is shown on a plan of subdivision registered by an applicant at a land titles office under *The Planning Act* as dedicated for public use as a municipal road, upon compliance by the applicant with any condition that is related to the road and required for approval of the plan.

294 A Municipality is required to construct or maintain a municipal road only to a standard that is appropriate for the use to which the Municipality expects the road to be put.”

AND WHEREAS the Lieutenant Governor in Council has made Regulation No. 48/97 under section 232(2)(e) of *The Municipal Act* for the purpose of regulating aggregate mining and transportation fees and agreements;

AND WHEREAS the Municipality wishes to provide for the licensing of aggregate mining and transportation within the Municipality and to set fees payable in connection with such licensing;

NOW THEREFORE the Council of the Rural Municipality of Cornwallis in Council duly assembled enacts as a by-law the following:

1.0 DEFINITIONS:

1.1 In this by-law:

“**Aggregate**” means a quarry mineral that is used solely for construction purposes or is used as a constituent of concrete, other than in the manufacture of cement, and includes sand, gravel, clay and crushed stone or rock.

“**Aggregate Mining and Transportation Licence**” means a licence issued under paragraph 4.0 of this by-law.

“**Mine**”, “**Mining**” or “**Mined**” means the removal of a substance to a place outside the boundaries of a parcel or tract of land from which such substance has

been extracted by means of digging or excavation.

“Municipality” means the Rural Municipality of Cornwallis.

“Municipal Road” means a municipal road as defined in The Municipal Act and which is located in the Rural Municipality of Cornwallis.

“Owner” means the person having the right to remove and dispose of aggregate in, under or upon a parcel or tract of land or, where such right cannot be conveniently determined, the legal owner of such parcel or tract.

“Person” means a natural person, a partnership, a firm, a business, an association, a credit union, a cooperative, a corporation or a Municipality.

“Pit Location” means the parcel or tract of land from which aggregate is mined and includes a pit location specified in an Aggregate Mining and Transportation licence.

“Transport”, “Transporting” or “Transported” means the movement of a substance from one place to another place.

2.0 APPLICATION:

- 2.1 Unless provided to the contrary herein, this by-law applies to every person mining or transporting aggregate within the Municipality.
- 2.2 This by-law does not apply to the Municipality.
- 2.3 This by-law does not apply to the Crown or a Crown Agency, except to the extent provided in paragraph 5 hereof.

3.0 PROHIBITIONS:

3.1 No person shall mine aggregate within the Municipality unless:

- (a) such person has a valid and subsisting Aggregate Mining and Transportation Licence for the pit location from which such aggregate was mined; or
- (b) the aggregate was mined from a pit location specified in a valid and subsisting Aggregate Mining and Transportation Licence issued to a licensee other than such person and such person has provided to the licensee the information specified in paragraph 3.4 hereof.

3.2 No person shall transport aggregate within the Municipality unless:

- (a) such aggregate was mined from a pit location specified in a valid and subsisting Aggregate Mining and Transportation Licence and such person has provided to the licensee the information specified in paragraph 3.4 hereof; or
- (b) such aggregate was obtained from a pit location outside the Municipality or from a Pit Location owned by the Crown or a Crown Agency or such person pays to the Municipality prior to transporting such aggregate the amount of fees set forth in sub-paragraph 5.1 (b); or
- (c) such person makes arrangements satisfactory to the Municipality prior to transporting such aggregate for the payment of fees that would be due to the Municipality if sub-paragraph 5.1 (b) were applicable to such person.

3.3 No owner shall allow, suffer or permit the mining or transportation of aggregate from any land of the owner unless such land is specified as a pit location in a valid and subsisting Aggregate Mining and Transportation Licence.

3.4 Where a person transports aggregate that was mined from a pit location specified in a valid and subsisting Aggregate Mining and Transportation Licence

or from a pit location for which such Licence should have been obtained, such person shall within a reasonable time provide to the Licencee or to the person who should have obtained a licence, the following information:

- (a) his full name and mailing address; and
- (b) the full name and address of his employer, if any; and
- (c) the quantity of aggregate transported by him from the pit location in question; and
- (d) the route over which such aggregate has been or will be transported; and
- (e) any other information necessary to calculate fees due or the party from whom they are due in accordance with sub-paragraph 5.1 (b).

4.0 LICENCES:

- 4.1 Aggregate Mining and Transportation Licences shall be in the form attached hereto as Schedule “A”.
- 4.2 Aggregate Mining and Transportation Licences shall be valid and subsisting for a period of one year, commencing January 1 and ending December 31, notwithstanding the time of issuance.
- 4.3 Every owner of property from which aggregate is mined or transported shall obtain an Aggregate Mining and Transportation Licence prior to allowing any mining or transporting of aggregate from their property unless the person doing the mining or transporting has a valid and subsisting Aggregate Mining and Transportation Licence.
- 4.4 Every person requiring an Aggregate Mining and Transportation Licence shall make application for such licence at the office of the Municipality and shall pay to the Municipality the fee for such licence at the time of application.
- 4.5 The fee for an Aggregate Mining and Transportation Licence shall be \$10.00.
- 4.6 The holder of an Aggregate Mining and Transportation Licence shall produce such licence to a designated officer of the Municipality forthwith upon demand.

5.0 ADDITIONAL FEES:

- 5.1 A person required to have an Aggregate Mining and Transportation Licence shall pay fees to the Municipality as follows:
 - (a) a fee based on the quantity of aggregate mined in the Municipality by that person during the calendar year specified in Column A and which fee shall be the lesser of the amounts calculated in Column B or Column C as follows:

Column A	Column B	Column C
Calendar Year	Rate per cubic meter	Rate per tonne
2010	\$0.089	\$0.050
2011	\$0.107	\$0.060
2012	\$0.249	\$0.140
2013 and following	\$0.267	\$0.150

- (b) a fee for the transportation of aggregate for the shortened lifetime of and, maintenance, repair and restoration of municipal roads which fee shall be as determined by the following formula:

$A \times B$

In this formula,

A is the number of kilometres of municipal road over which the aggregate is transported;

B is the lesser of

- (a) the number of tonnes of aggregate transported, multiplied by the rate per tonne set out in Column 1 of the following table for the relevant time period; and
- (b) the number of cubic metres of aggregate transported, multiplied by the rate per cubic metre set out in Column 2 for the relevant time period.

Time Period	Column 1 Rate per tonne	Column 2 Rate per cubic metre
January 2010 to end of February 2010	\$0.0146	\$0.0256
March 2010 to end of November 2010	\$0.0303	\$0.0530
December 2010 to end of February 2011	\$0.0151	\$0.0266
March 2011 to end of November 2011	\$0.0315	\$0.0551
December 2011 to end of February 2012	\$0.0157	\$0.0277
March 2012 to end of November 2012	\$0.0328	\$0.0573
December 2012 to the end of February 2013	\$0.0164	\$0.0288
After February 2013, during the months of March to November	\$0.0341	\$0.0596
After February 2013, during the month of December, January and February	\$0.0170	\$0.0299

- 5.2 Notwithstanding that this by-law may be inapplicable to a particular person mining aggregate or to a particular pit location from which aggregate is mined, all persons transporting aggregate within the Municipality shall pay to the Municipality as and when due, the fees set forth in Section 5.1, Subsection (b).
- 5.3 Where a person is required to have an Aggregate Mining and Transportation Licence in any part of a calendar year, such person shall provide to the Municipality on or before February 25th in the next ensuing year, a complete and accurate record in the form attached hereto as Schedule “B”.
- 5.4 Where a person is required to have an Aggregate Mining and Transportation Licence in any part of a calendar year, such person shall maintain a complete and accurate record of all persons transporting aggregate obtained from the pit location specified in such Licence, together with the amount and delivery route of such aggregate and such records shall be retained for at least six years.
- 5.5 Fees payable by a person required to have an Aggregate Mining and Transportation Licence in any part of a calendar year, shall be remitted in full to the Municipality on or before February 25th in the next ensuing year.
- 6.0 AGREEMENT IN LIEU OF FEES:
 - 6.1 In lieu of payment of the fees referred to in sub-paragraphs 5.1 (b), the Municipality may enter into agreements with persons required by this by-law to have an Aggregate Mining and Transportation Licence.
 - 6.2 Any agreement made under the authority of this paragraph shall be in conformity with Manitoba Regulation 48/97, as amended from time to time and is subject to the approval of the Council of the Municipality.
- 7.0 ENFORCEMENT:
 - 7.1 Any person who contravenes any provision of this by-law is guilty of an offence and is liable to a fine of not less than \$100.00 or more than \$500.00 or to imprisonment for a term not exceeding three months, or both.

- 7.2 Where any person contravenes any provision of this by-law for more than one day, such person is guilty of a separate offence for each day such contravention continues.
- 7.3 Upon reasonable notice, a person required to have an Aggregate Mining and Transportation Licence in any year shall permit a designated officer of the Municipality to enter upon any premises where records required under this by-law are kept, to examine such records and to make copies thereof.
- 7.4 In the event that fees due and owing under this by-law are not paid by an owner or a person acquiring aggregate from an owner as and when due, the Municipality may add the amount thereof to the real property taxes of the owner and collect such fees in the same manner as taxes or take any other remedy available to the Municipality.
- 8.0 COMING INTO FORCE:
- 8.1 This by-law comes into force and effect on January 1, 2010 at which time By-Law No. 1560/01/2000 is repealed.
- 8.2 Any fee outstanding under By-law No. 1560/01/2000 on the day before it is repealed, shall be deemed to be a civil debt due to the Municipality by the person or persons liable for it under the said by-law and the Municipality may effect recovery of such debt in any manner available to it at law.

DONE and PASSED by the Council of the Rural Municipality of Cornwallis duly assembled this 21st day of July A.D., 2009.

THE RURAL MUNICIPALITY OF CORNWALLIS
Per

REEVE

FINANCE OFFICER/ASSISTANT CAO

Read a first time this 16TH day of June, 2009.

Read a second time this 21st day of July, 2009.

Read a third time this 21st day of July, 2009.

SCHEDULE “A”

RURAL MUNICIPALITY OF CORNWALLIS
AGGREGATE MINING AND TRANSPORTATION APPLICATION AND LICENCE

To: R.M. of Cornwallis
Box 10, Site 500, RR# 5, Brandon, Manitoba, R7A 5Y5

I, Name _____

Address _____ Telephone Number _____

hereby make application for a licence for the mining of aggregate at the following mining activity location:

EXISTING PIT _____

NEW DEVELOPMENT _____

LAND USE APPROVAL IN PLACE ☐ YES ☐ NO *

* Land use Approval must be in place before a licence may be issued.

and for the transportation of that aggregate over municipal roads in the Rural Municipality of Cornwallis:

I hereby agree to the following:

- a) to pay all fees and provide all records stipulated in the provisions of By-Law No. 1609/03/2009 and amendments thereto, by February 25 of next year;
- b) to provide the Municipality through its officers, servants or agents, the right of entry to inspect and determine the weight and volumes of aggregate removed land within the Municipality and to provide proof of the Aggregate Mining Licence issued as a result of this Application and payment of the prescribed fee, upon request of any officer, servant or agent of the Rural Municipality of Cornwallis.
- c) to forthwith surrender the licence issued by the Rural Municipality of Cornwallis as a result of this application and payment of the prescribed fee, upon the cancellation of it by the Rural Municipality of Cornwallis for non-compliance with By-Law No. 1609/03/2009; and
- d) My address to which all notices by the Rural Municipality of Cornwallis to me should be sent is as above or: _____

Dated at the Rural Municipality of Cornwallis this _____ day of _____ 20 ____.

Signature of Applicant

LICENCE

This certifies that _____ is granted a licence(s) as described above subject to terms and provisions of the Municipality's By-laws.

Licence Fee: \$10.00

Received: _____

Pit Location: _____ ¼ Sec. _____ Twp. _____ Rge. _____

Licence Expiry Date: _____

Dated at the Rural Municipality of Cornwallis, in the Province of Manitoba this ____ day of _____ 20 ____

Rural Municipality of Cornwallis
Site 500, Box 10, RR #5
Brandon, Manitoba R7A 5Y5

SCHEDULE “B”

RURAL MUNICIPALITY OF CORNWALLIS
AGGREGATE MINING AND TRANSPORTATION FEES

REMITTANCE FOR AGGREGATE MINED AND TRANSPORTED

BETWEEN _____ and _____, 20 ____

COMPLETE ONE FORM FOR EACH ROUTE OF TRAVEL

LICENCE NO.			
PIT LOCATION	¼ SEC	TWP	RGE

COMPANY NAME			
P.O. BOX/STREET		CITY	
POSTAL CODE		CONTACT PERSON	
PHONE		EMAIL	

Calculate payment in either tonnes or cubic metres. Aggregate taken from pits owned by the Crown or a Crown Agency are exempt from fees payable under Box A.

BOX A – FEES FOR THE MINING OF AGGREGATE

AMOUNT OF AGGREGATE	RATE OF PAYMENT	\$ AMOUNT (BOX A)
Tonnes		
Cubic Metres		
\$ AMOUNT IN BOX A TO BE MOVED TO BOX D		

BOX B – FEES FOR THE TRANSPORTATION OF AGGREGATE

PERIOD TRANSPORTED	AMOUNT TRANSPORTED	RATE OF PAYMENT	\$ AMOUNT (BOX B)
January and February	Tonnes		
	Cubic Metres		
March to end of November	Tonnes		
	Cubic Metres		
December	Tonnes		
	Cubic Metres		
TOTAL SUM OF AMOUNTS IN BOX B AND MOVE TO BOX C			

BOX C – CALCULATION OF FEES FOR KILOMETRES TRAVELLED ON MUNICIPAL ROADS

	TOTAL PAYABLE
\$ TOTAL SUM AMOUNT FROM BOX B	\$
NO. OF KILOMETRES TRAVELLED	X kms.
MULTIPLY \$ AMOUNT BY NO. OF KM. TRAVELLED - MOVE PRODUCT TO BOX D	\$

BOX D – TOTAL PAYABLE TO MUNICIPALITY

	TOTAL PAYABLE
AMOUNT FROM BOX A	\$
AMOUNT FROM BOX C	\$
ADD TWO LINES ABOVE TOTAL SUM IS AMOUNT DUE:	\$

UPON COMPLETION, THIS FORM TOGETHER WITH PAYMENT IN THE AMOUNT FROM BOX D IS TO BE REMITTED TO:

THE RURAL MUNICIPALITY OF CORNWALLIS
SITE 500 BOX 10 RR 5,
BRANDON, MANITOBA, R7A 5Y5